

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------|---|---------------------|
| APPLICATION OF BELL SOUTH |) | |
| MOBILITY, LLC D/B/A CINGULAR |) | |
| WIRELESS - KENTUCKY FOR |) | |
| ISSUANCE OF A CERTIFICATE |) | |
| OF PUBLIC CONVENIENCE AND |) | |
| NECESSITY TO CONSTRUCT A |) | |
| WIRELESS COMMUNICATIONS |) | |
| FACILITY AT ROUGH AND TOUGH |) | |
| ROAD, PRESTONSBURG, KENTUCKY |) | CASE NO. 2004-00413 |
| 41653 OR, IN THE ALTERNATIVE, |) | |
| AN ORDER REQUIRING CO-LOCATION |) | |
| ON REASONABLE TERMS AND |) | |
| CONDITIONS IN THE WIRELESS |) | |
| COMMUNICATIONS LICENSE AREA |) | |
| IN THE COMMONWEALTH OF KENTUCKY |) | |
| IN THE COUNTY OF FLOYD |) | |
| SITE NAME: BRAINARD |) | |

O R D E R

This matter is before the Commission on motion of the applicant, BellSouth Mobility, LLC, d/b/a Cingular Wireless – Kentucky (“Cingular”), to hold the application and all pending motions in abeyance for a period of 45 days. Applicant proposes direct negotiations with East Kentucky Network Limited Liability Company (“East Kentucky Network”) regarding collocation of its cellular facility on an existing cellular facility owned and operated by East Kentucky Network.

On October 22, 2004, Cingular filed an application for the issuance of a Certificate of Public Convenience and Necessity to construct a cellular communications facility in Floyd County, Kentucky. Cingular requested in the alternative the issuance of

a Commission Order that made East Kentucky Network a party to the application proceedings and that directed them to permit the collocation of Cingular's proposed cellular facility on East Kentucky Network's existing cellular facility, on reasonable terms and conditions. East Kentucky Network's existing cellular facility¹ is located less than 1,000 feet from Cingular's new proposed facility as described in its application.

Cingular's pending motions referred to above were filed on January 12, 2005. Cingular moved the Commission to make East Kentucky Network a party to this case, to accept for filing a Memorandum of Law relating to collocation issues, and to schedule an informal conference.

On February 4, 2005, East Kentucky Network filed its response to the three motions. The response alleges that Cingular did not make a good faith effort to negotiate the collocation issue with East Kentucky Network. It alleges that Cingular's motion for joinder to make East Kentucky Network a party "is without merit and should be denied."

Based on East Kentucky Network's response, Cingular has made its pending motion to hold all motions in temporary abeyance. Prior to receipt of the three motions, Commission Staff scheduled an informal conference for March 2, 2005. Cingular's motion to place the proceedings in temporary abeyance should be granted and the informal conference should be cancelled.

¹ Case No. 2004-00190, The Application of East Kentucky Network Limited Liability Company For the Issuance of a Certificate of Public Convenience and Necessity to Construct a Tower in Floyd County, Kentucky (Ky. PSC July 7, 2004).

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. Cingular's motion to place the proceedings in abeyance for a period of 45 days from the date of this Order is granted.

2. Cingular and East Kentucky Network shall file with the Commission a written report regarding the general progress of any negotiations at 20-, 40-, and 50-day intervals from the date of this Order.

3. The informal conference scheduled for March 2, 2005 is cancelled.

Done at Frankfort, Kentucky, this 1st day of March, 2005.

By the Commission

ATTEST:



Executive Director